

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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|------------------------------------|---|-------------------|
| ----- | x | |
| ANTHONY CORTESE, individually and | : | |
| on behalf of others similarly | : | |
| situated, | : | |
| Plaintiff, | : | |
| | : | 19-cv-11189 (JSR) |
| v. | : | |
| | : | <u>ORDER</u> |
| SKANSKA KOCH, INC. and SKANSKA USA | : | |
| INC., | : | |
| Defendants. | : | |
| ----- | x | |

JED S. RAKOFF, U.S.D.J.

Now before the Court is plaintiff's motion to compel compliance with the subpoena he served upon the Port Authority of New York & New Jersey (the "Port Authority"), ECF No. 41.

Plaintiff offered evidence establishing the following. See Ansell Decl., ECF No. 43. Plaintiff's counsel notified the defendants that they would serve the subpoena on the Port Authority on August 18, 2020, and they did so, by personal service. ECF No. 43, at 13, 26. The Port Authority called plaintiff's counsel seeking information about the subpoena on or about August 28, 2020, and plaintiff's counsel provided the requested information by email that same day. Id. at 2. The subpoena lists a return date of September 15, 2020. Id. at 4. The Port Authority has not complied with the subpoena or offered any reason why it should not be required to do so.

Though some of the categories of documents requested in the subpoena may be overbroad, see id. at 10-11, the Court is unaware of a justification for the Port Authority's complete failure to respond to the subpoena, or even to offer a date certain by which it will do so. The close of discovery in this action is firmly fixed for November 12, 2020, so further delay will prejudice the parties.


Accordingly, the Court rules as follows:

The Port Authority is ordered to show cause why the Court should not hold it in contempt of court for failure to comply with the subpoena. The Port Authority may file a written response by Monday, October 26, 2020, at 5:00 pm. The Port Authority and the parties to the action shall appear through counsel at a hearing on Wednesday, October 28, 2020, at 11:00 am.

Plaintiff is ordered to serve this order upon the Port Authority, along with a copy of plaintiff's motion, memorandum of law, and declaration, ECF Nos. 41-43, by no later than tomorrow, October 22, 2020. If the Port Authority complies with the subpoena or agrees to do so by a date certain not later than Monday, November 2, 2020, then plaintiff shall so notify the Court and, unless plaintiff requests otherwise, the order to show cause will be discharged.

SO ORDERED.

Dated: New York, NY
October 21, 2020


JED S. RAKOFF, U.S.D.J.